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Arizona Corporation Commission

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IN THE MATTER OF THE APPLICATION OF
UNS ELECTRIC, INC. FOR A CERTIFICATE
OF ENVIRONMENTAL COMPATIBILITY
FOR THE VAIL TO VALENCIA 115 KV TO
138 KV TRANSMISSION LINE UPGRADE
PROJECT, ORIGINATING AT THE EXISTING
VAIL SUBSTATION IN SEC. 4, T.16S., R.15E.,
PIMA COUNTY, TO THE EXISTING
VALENCIA SUBSTATION IN SEC. 5, T. 24S.,
R.14E., IN THE CITY OF NOGALES, SANTA
CRUZ COUNTY, ARIZONA.

Docket No. L-00000F-09-0190-00144

Case No. 144

**BRIEF OF UNS ELECTRIC, INC.
IN RESPONSE TO CEC EXCEPTIONS**

UNS Electric, Inc. ("UNS Electric" or "Company"), through undersigned counsel, hereby
provides its Brief in the above-captioned matter.

INTRODUCTION AND SUMMARY OF ARGUMENT

On July 15, 2009, the Arizona Power Plant and Line Siting Committee (the "Committee")
issued a Certificate of Environmental Compatibility ("CEC") for UNS Electric to upgrade the line
that serves Santa Cruz County by increasing the voltage from 15kV to 138kV and replacing
approximate-40-year-old wooden H-frame structures that carry the line over 25 miles from the
Kantor Substation south to the Valencia Substation. The CEC also granted UNS Electric
authority to extend the line north and east approximately 4.2 miles to interconnect with Tucson
Electric Power Company's Vail Substation to increase the capacity of the line from 50.9 to 120
MW.

Mr. Magruder and Ms. Webb filed requests for review of the CEC seeking to modify and
add certain conditions. Mr. Magruder makes two requests in his filing. He wants to move a 1.3
mile segment of the line 200 feet west of the railroad despite concerns raised by the Company and

1 the Santa Cruz County Flood District Administrator that placing the line west of the railroad puts
2 the line within the floodway of the Santa Cruz River and increases the risk of damage to the line,
3 the railroad, as well as riparian habitat. Mr. Magruder also wants to modify the language of the
4 CEC regarding the pole finish plan to increase the time allowed for residents to object to the
5 Company's pole finish selection. Ms. Webb raises several concerns and then asks for five
6 changes to the CEC with her principal request being that the Committee, and now this
7 Commission, create a condition for this project that establishes a "Citizens' Advisory Council" to
8 mirror the Southeast Arizona Transmission Study group to police utilities planning and public
9 outreach activities. Ms. Webb also wants to require an on-site archeologist and impose additional
10 environmental conditions on the portion of the line that was previously reconstructed and will
11 remain unchanged except for being energized to 138kV.

12 As set out below, UNS Electric believes that the exceptions raised by Mr. Magruder and
13 Ms. Webb are not well taken and should be denied. The Committee spent a considerable amount
14 of time hearing the testimony and evidence presented by all parties – including the very same
15 points raised by Mr. Magruder and Ms. Webb in their exceptions. The Committee gave serious
16 attention to crafting the conditions to the CEC that seek to protect the interests of the public and
17 the environment while allowing for the reconstruction and upgrade of the line. Mr. Magruder's
18 desire to place the line further into the Santa Cruz River floodplain not only unnecessarily
19 increases the cost of the Project, it is simply at odds with good planning. Further, the condition
20 relating to pole finish selection gives ample opportunity to residents and others to object to the
21 pole finish selection. Similarly, Ms. Webb's attacks on the public process and outreach are not
22 well taken. There was considerable notification and public outreach concerning this project. Ms.
23 Webb admitted she lives 16 miles from this project and has failed to show that individuals who
24 live within the study and notification area that extends one mile on either side of the line did not
25 receive notice and ample opportunity to provide input into the planning of this project. Her desire
26 to create an oversight group is also misplaced.

FACTUAL BACKGROUND AND HISTORY

On April 21, 2009, UNS Electric filed its Application for a Certificate of Environmental Compatibility ("CEC") – Vail to Valencia 115 kV to 138 kV Transmission Line Upgrade Project ("Project"). The purpose of the Project is to: (1) interconnect the existing transmission line serving UNS Electric's service territory in Santa Cruz County with a major import substation – the Tucson Electric Power Company ("TEP") Vail Substation; (2) upgrade the voltage of that line to 138 kV from 115 kV; and (3) replace aging wooden H-frame structures with steel monopoles. The Application described the Project by dividing it into four segments as follows:

- Segment 1 From the Vail to Kantor Substations;
- Segment 2 From the Kantor to Canez Substations;
- Segment 3 From the Canez to Sonoita Substations; and
- Segment 4 From the Sonoita to Valencia Substations.

For most of Segment 1, the existing transmission line was rebuilt on steel monopoles as approved in Decision No. 56097 (August 17, 1988, Line Siting Case No. 78 and labeled as Segment 1B in the Application). That portion of the line is capable of operating at 138 kV, but currently operates at 115 kV. The Application included this portion of the existing transmission line to obtain Arizona Corporation Commission ("Commission") approval for operation at 138kV. Segment 1 also includes an approximate 4.2-mile portion where new transmission facilities (*i.e.* monopoles, insulators, conductors etc.) would be built to interconnect the upgraded transmission line with the TEP Vail Substation (*i.e.* Segment 1A). Currently, the existing transmission line is connected to the Nogales Tap – and the transmission system owned and operated by Western Area Power Administration ("WAPA"). That system has insufficient transmission capacity to meet UNS Electric's entire load. Two alignments were proposed for Segment 1A; the Committee chose the preferred alignment.

For the remaining Segments 2, 3 and 4, UNS Electric proposed multiple alignments. The Preferred Alignment for the majority of the Project, however, was to rebuild the Project in the existing 115 kV transmission line alignment. Notable exceptions included the southern portion of

1 Segment 2, where the Company's Preferred Alignment is to parallel the eastern
2 Pacific Railroad right of way ("UPRR ROW"). That alignment would put the Project at the edge
3 of an existing mesquite bosque between where the existing alignment intersected with Pendleton
4 Road, and the Canez Substation (*i.e.* the "Mesquite Bosque Area"). This was partially because the
5 public comment was to move the transmission to the edge of the UPRR ROW. Even so, the
6 Existing Alignment is the least-costly alignment, and UNS Electric has already cleared vegetation
7 in accordance with FERC and NERC requirements¹.

8 UNS Electric's Preferred Alignment in Segment 3 is to continue to parallel the eastern
9 edge of the UPRR ROW, following an existing electrical distribution line right-of-way ("ROW"),
10 and avoiding encroachments on the existing 115 kV alignment (including sheds, basketball hoops,
11 block walls and other structures residents had placed there over the last several decades before
12 UNS Electric owned and operated the existing assets in this area). In Segment 4, the Company's
13 Preferred Alignment was the existing alignment -- except for a 0.9 mile portion starting at the
14 intersection of Old Tucson Road and Grand Avenue in Nogales. The purpose of that short bypass
15 is to avoid an area where extensive development adjacent to road ROW all but prohibits
16 rebuilding within the existing 115 kV alignment.

17 Both Marshall Magruder and Elizabeth Buchroeder-Webb intervened in the proceedings
18 and had several issues regarding the Project, proposed conditions, and/or the public process.
19 Further, many residents in the Mesquite Bosque Area expressed -- through public comment at the
20 hearings before the Committee -- a desire to move the Project west of the UPRR ROW onto
21 agricultural land owned by Rio Rico Properties. On July 8, 2009, Santa Cruz County Floodplain
22 Coordinator John Hayes issued a letter expressing his concerns about placing the Project west of
23 the UPRR ROW². Ultimately, the Committee chose to accept UNS Electric's Preferred Alignment
24 in Segment 2 and locate the Project east of the UPRR ROW. On July 15, 2009, the Committee
25

26 ¹ "FERC" is the Federal Energy Regulatory Commission; "NERC" is the North American Electric
27 Reliability Corporation.

² See Ex. UNS-25.

1 issued UNS Electric a CEC approving the Company's Preferred Alignment in each of the four
2 segments.

3 On July 29, 2009, both Mr. Magruder and Ms. Webb filed Requests for Review. Mr.
4 Magruder's Request primarily focuses on his belief that the Project should be moved to the west
5 of the UPRR ROW in the Mesquite Bosque Area between Kiwi Court and Canez Substation. Mr.
6 Magruder seeks to locate the Project within the 50-foot portion of the 500-foot corridor the
7 Company requested for the Project in this area. But the evidence shows that Mr. Magruder's
8 proposal is less environmentally compatible and potentially less reliable than the Preferred
9 Alignment the Committee approved for the Project as part of the CEC it issued.

10 Ms. Webb seeks to add several conditions and requirements to the CEC, most notably a
11 Citizens Advisory Council or "CAC". She criticizes UNS Electric for lack of extensive public
12 outreach. The evidence is to the contrary. While the public process can always be improved and
13 perfected, the evidence here is that the public process was open, fair and extensive. A CAC, is
14 redundant, unnecessary and (if it were to be an oversight body) illegal.

15 The following Memorandum of the Evidence and Arguments will first address why the
16 Project meets the need for a reliable supply of power and why the final route selected minimizes
17 the impact to the environment. Then, the Brief will address issues and concerns raised by Mr.
18 Magruder and Ms. Webb.

19 MEMORANDUM OF THE EVIDENCE AND ARGUMENTS

20 **I. THE EVIDENCE ESTABLISHES THE PROJECT IS NEEDED TO ENSURE A** 21 **RELIABLE SUPPLY OF POWER WHILE MINIMIZING THE IMPACT TO THE** 22 **ENVIRONMENT.**

23 **A. The Project is the Most Cost-Effective Means to Meet the Need for Reliable** 24 **Power.**

25 UNS Electric showed that the Project is needed and will provide a reliable, adequate and
26 economical supply of power. The Project will upgrade existing transmission facilities serving
27 Santa Cruz County. Mr. Beck for UNS Electric testified (and showed through his PowerPoint
presentation admitted as Exhibit UNS-3) that there is a limitation of 50.9 megawatts (MW) on the

1 current system³. This is because of the voltage issue that requires running costly and less efficient
2 generation in Nogales⁴. As the Santa Cruz County load increases, the need to run these units will
3 increase, which will increase their wear and tear⁵. The Project will relieve this constraint and
4 increase the capacity of the transmission line serving Nogales and Santa Cruz County to 120
5 MW⁶. This is done by re-locating the northern termination point from the Nogales Tap (on the
6 transmission system operated by Western Area Power Administration or "WAPA") to the TEP
7 Vail Substation – a major transmission import substation⁷. Increasing the voltage of the line will
8 allow for more load to be served at peak times without the need to add additional transmission
9 under normal operation circumstances⁸.

10 Further, the Project replaces aging wooden H-frame structures with steel monopoles. The
11 existing structures are between the Kantor Substation and the Valencia Substation in Segments 2,
12 3 and 4. This accounts for approximately 26.1 miles of the Project length out of a total of 57.7
13 miles. Mr. Beck testified that replacing the wooden structures with steel monopoles – together
14 with increasing the voltage capability – will reduce potential for lightning outages⁹. Further, the
15 wooden structures must be replaced in order to have proper separation between the ground, the
16 conductors and the insulators¹⁰.

17 The evidence further shows the Project is the most cost-effective means to meet the goals
18 the Project will address. Mr. Beck testified the cost to interconnect the transmission line with the
19 TEP Vail Substation will be approximately \$4.4 million¹¹. To upgrade the WAPA system for the
20 same benefits, Mr. Beck testified that to do so could cost as much as over \$75 million¹². Further,
21

22 ³ Tr. at 98.

23 ⁴ Tr. at 99.

24 ⁵ UNS-3 (Beck PowerPoint Presentation) at 4-6; Tr. at 99.

25 ⁶ See Ex. UNS-1 (Application) at 2; Tr. at 117.

26 ⁷ Ex. UNS-1 at 2; Tr. at 283.

27 ⁸ Ex. UNS-1 at 2.

⁹ Tr. at 395.

¹⁰ Tr. at 397.

¹¹ Tr. at 104.

¹² Tr. at 103-05.

1 UNS Electric receives no real benefit from remaining connected to the WAPA system in terms of
2 receiving preference power (e.g. hydrogeneration). That preference power is delivered to
3 municipalities, federal agencies, and irrigation districts. UNS Electric only has the ability to use
4 the excess transmission available from the WAPA system¹³.

5 Further, UNS Electric would have added flexibility to acquire power from more locations
6 if it were connected to the Vail Substation¹⁴. No party refuted UNS Electric's evidence or
7 brought forth other evidence showing that other system options would be would be more cost-
8 effective and provide the same reliability benefits as the Project. In addition, the Project takes
9 advantage of the approximate 27.8-mile portion of line from the Nogales Tap to Kantor
10 Substation already capable for operation at 138 kV¹⁵. In short, the evidence showed the Project to
11 be the most efficient way to upgrade facilities to serve UNS Electric customers in Santa Cruz
12 County.

13 The Committee agreed that the Project was needed and voted to issue a CEC for the
14 Project¹⁶.

15 **B. The Final Route selected for the Project is environmentally compatible.**

16 Although all of the routes proposed in the Application are environmentally compatible,
17 UNS Electric agrees with the selected route as that alignment will minimize the impact on the
18 environment. The Committee approved UNS Electric's request for a 500-foot corridor (except for
19 an approximate 0.3-mile stretch in Nogales that has a 1,250-foot corridor). This was to give
20 flexibility to work with landowners and place the 100-foot ROW where it would have the least
21 impact¹⁷. The Company commits to trimming vegetation on a five-year cycle within the Mesquite
22 Bosque Area, instead of clear-cutting the area, to the extent that vegetation management practice
23
24

25 ¹³ Tr. at 101-02

26 ¹⁴ Tr. at 102.

27 ¹⁵ Approved in Decision No. 56097.

¹⁶ Tr. at 965-67; 1073.

¹⁷ Tr. at 186, 208.

1 is in compliance with FERC and NERC Requirements¹⁸. The evidence showed that the Project
2 alignment the Committee selected: (1) avoids severe access issues and encroachments on the
3 existing transmission line ROW in Segment 3; (2) avoids significant construction and engineering
4 obstacles around the intersection of Grand Avenue and Old Tucson Road in Nogales within
5 Segment 4 of the Project; (3) minimizes the cost to acquire new ROW; and (4) mitigates or avoids
6 impacts to most biological and cultural resources¹⁹.

7 **II. THE ARGUMENTS INTERVENERS RAISE DO NOT WARRANT MODIFYING**
8 **THE CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY ISSUED BY**
9 **THE COMMITTEE.**

10 As detailed below, the criticisms and changes that Mr. Magruder and Ms. Webb levy at
11 UNS Electric and the Committee's decisions are unfounded. Mr. Magruder proposes to change
12 the alignment between Kiwi Court and Canez Substation in Segment 2 within the Mesquite
13 Bosque Area. Both propose additional requirements and conditions to the CEC. The remainder
14 of this Memorandum addresses: (1) why the Committee-issued alignment for the Project should
15 be affirmed; and (2) why the additional conditions or modifications are not supported in the
16 record, would add significant cost and would not provide benefit in minimizing the environmental
17 compatibility under the factors delineated in A.R.S. § 40-360.06.

18 **A. Putting the Project West of the UPRR ROW from Kiwi Court to Canez**
19 **Substation in Segment 2 is Significantly Less Environmentally Compatible**
20 **Than the Applicant's Proposed Routes.**

21 All of the alignments proposed in the Application were the result of a careful and
22 deliberative process that took many months and analyzed multiple environmental factors. The
23 Company proposed two alignments in the Mesquite Bosque Area – one directly east of the UPRR
24 ROW and one in the existing alignment. The Company chose its Preferred Alignment in the
25 Application in this area largely because of comments from landowners during the public
26 process²⁰. Even so, if looking at the Project from a cost standpoint, the Existing Alignment would

26 ¹⁸ Tr. at 302, 328, 789, 957.

27 ¹⁹ Ex. UNS-7 (Warner PowerPoint Presentation) at 35, 42, 47, 56; Ex. UNS-22 at 44; Tr. at 110,
156-57, 278, 299-300.

²⁰ Tr. at 172, 191.

be the more attractive option because it is the least expensive option²¹. It is also already within an existing UNS Electric ROW. Further, the area within the existing transmission line ROW was already cleared. This was done for vegetation management purposes to meet NERC requirements the Company must adhere to²². Also, the Existing Alignment is higher in elevation and is not in the floodplain, which is perhaps a reason why John Hays, Santa Cruz County Floodplain Coordinator, indicated a preference for the Existing Alignment in his letter dated July 8, 2009²³. Ultimately, the Company could support either the Existing or Preferred Alignment in Segment 2; each has different factors that justify it as the optimal alignment within the Mesquite Bosque Area (with comments received through the public process steering the Company toward identifying the route east of the UPRR ROW as its Preferred Alignment)²⁴. Other routes in this area were examined and eliminated as the Company believed them to have too many impacts to the existing resources in that area.

Mr. Magruder proposes that the line be placed directly west of the UPRR ROW within a 50-foot strip that is part of UNS Electric's proposed 500-foot corridor. While it is possible to construct the line within this 50-foot corridor, there is no good or compelling reason to do so²⁵. The evidence shows this to either still be in the documented floodway or directly adjacent to the floodway²⁶. The floodway is the portion of a river where the water's energy is most severe²⁷. The energy of the Santa Cruz River in this area is currently impeded by the embankment of the UPRR, even if it is not a recognized berm per se²⁸. If the Project is east of the UPRR ROW it is better shielded from the floodway²⁹. This is not the case if the Project is placed to the west of the UPRR ROW.

²¹ Tr. at 779.

²² Tr. at 144, 182, 779.

²³ Admitted as Ex. UNS-25. Tr. at 768. *See also* Tr. at 182.

²⁴ Tr. at 182, 779-80.

²⁵ Tr. at 750-51.

²⁶ Ex. UNS-23 at Appendix B.

²⁷ Tr. at 175.

²⁸ Tr. at 173, 340.

²⁹ Tr. at 340.

Further, to place the Project west of the UPRR ROW will require constructing the steel monopoles with massive concrete foundations. The extent and depth of the foundations will ultimately depend on the water table, as well as permits for access through the floodway or floodplain³⁰. But there is no doubt that Mr. Magruder's proposal makes the Project more costly – as much as \$100,000 to \$150,000 or more per foundation³¹. In addition, there are reliability risks associated with placing the transmission line in this area. A monopole has a greater potential to go down if it is placed in a floodway and accessing the monopole would be a significant problem in case of a flood³². While it is feasible to put poles in a floodway, those poles can never be considered truly floodproof³³.

Further, UNS Electric received a letter July 8, 2009, from John Hays, Santa Cruz County Floodplain Coordinator³⁴. The Committee had requested the Company meet with the County about issues placing the transmission line west of the UPRR ROW and in the Santa Cruz River channel. The Company did so and Mr. Beck filed Rebuttal Testimony summarizing the contents of what was discussed (among other topics)³⁵. Mr. Hayes' letter corroborated Mr. Beck's testimony and expressed several concerns including: (1) damage to the transmission line due to flooding; (2) concerns with placing the line within the channel of the Santa Cruz River; (3) damage to riparian habitat remaining west of the railroad tracks; and (4) the increased potential for erosion and causing damage to the railroad tracks and transmission line³⁶. The County recommends the transmission line be considered a critical facility and that it should be protected from a 500-year flood event. Further, while a transmission line may be exempt, any access road would likely require a floodplain use permit³⁷. Mr. Hayes, in short, noted several concerns

³⁰ Tr. at 338.

³¹ Tr. at 338.

³² Tr. at 339-40.

³³ Tr. at 798, 812-13.

³⁴ See Ex. UNS-25.

³⁵ Admitted as Ex. UNS-23. See Tr. at 781.

³⁶ Ex. UNS-25; see also Tr. at 773, 826 (regarding erosion)

³⁷ Ex. UNS-25; Tr. at 804. There could also be Clean Water Act Section 404 requirements, as Mr. Beck indicated in pre-filed Rebuttal Testimony. See UNS-23 at 6-7.

1 placing the Project west of the UPRR ROW and those concerns appear to remain, even with
2 respect to Mr. Magruder's suggestion to limit the relocation of the line to a 1.3 mile segment west
3 of the railroad based on subsequent correspondence submitted in the Docket.

4 Finally, Mr. Magruder emphasizes the land owned west of UPRR ROW in this area is
5 owned by Rio Rico Properties and will likely not be developed (it is currently grazing land leased
6 from Rio Rico for cattle). He is correct, and Rio Rico Properties indicates that it is negotiating for
7 a future Arizona State Park in this area. Rio Rico Properties did originally, however, express a
8 preference for the Preferred Alignment (likely because more of their property east of the UPRR
9 ROW would be developable)³⁸. Even so, Mr. Beck testified that Rio Rico Properties was
10 concerned about the Project being placed west of the UPRR ROW due to its negotiations for a
11 future state park on the land³⁹. Mr. Beck's testimony is corroborated by an electronic
12 communication sent to UNS Electric from Rio Rico Properties.⁴⁰. In short, while Rio Rico
13 Properties (based on the evidence in the record) may not oppose the line west of the UPRR ROW,
14 it did not indicate a preference for that either. Thus, the concerns about reliability, cost, impacts
15 to riparian habitats, and permitting shows that placing the Project west of the UPRR ROW is less
16 environmentally compatible, and may even compromise the Project's ability to ensure a reliable
17 supply of power.

18 **B. The Public Process was Open and Extensive.**

19 Ms. Webb would have the Commission believe that the process UNS Electric employed to
20 engage the public was lacking. The facts are to the contrary. The public process included the
21 following efforts:

- 22 • A project website and telephone line since March 2007;
- 23 • Four newsletters (in both English and Spanish) between December 2007 and April
24 2009. All four of those newsletters listed the phone number. The third and fourth
25

26 ³⁸ Tr. at 759, 777-78.

27 ³⁹ Tr. at 775.

⁴⁰ Admitted as Ex. UNS-26; Tr. at 783.

1 newsletters listed the website;

- 2 • Three series of public open houses (a total of eight public meetings) – including
3 two public meetings held in Tucson near the Vail Substation in May and December
4 2008⁴¹;

5 Residents within the Project study area, as well as P.O. Box holders in Tumacacori and
6 Amado, were sent all four newsletters⁴². The Project study area was expanded, and more residents
7 were mailed newsletters; all UNS Electric customers in Santa Cruz County and all residents and
8 landowners within a two-mile wide corridor in Pima County were sent the second, third and
9 fourth newsletters⁴³. The number of newsletter mailings continued to expand with additional
10 refinement for the third and fourth newsletters⁴⁴. The mailing list ultimately included any
11 residents within this corridor. In sum, while there were no separate mailings to registered
12 associations, any residents and association members who lived or owned property within the
13 Project study area were included in the final mailing list and received notice.⁴⁵

14 Further, UNS Electric advertised public open houses in local newspapers (including the
15 Vail Sun, for the second and third series of public open houses). There were radio advertisements
16 and notice was also provided on the internet in addition to the newspapers⁴⁶. Specifically
17 regarding the open houses held in Tucson, UNS Electric desired to hold those closer to the Vail
18 Substation, but the original location (University of Arizona Science and Technology Park) was
19 relocated. This was because management at the Technology Park decided they did not want the
20 meeting due to issues with the public going through the facility's security measures⁴⁷.

21 The public was invited to submit written comments through use of the public comment
22 form provided at the public open houses, through letters or electronic communications, or by
23

24 ⁴¹ See Ex. UNS-5 (Miller PowerPoint); Tr. at 456-505.

25 ⁴² Tr. at 482-83.

26 ⁴³ Tr. at 485-86.

27 ⁴⁴ Tr. at 494-95.

⁴⁵ Tr. at 869.

⁴⁶ Ex. UNS-5 at 12, 14.

⁴⁷ Tr. at 488-89.

calling the telephone line – in order to express any concerns or provide any suggestions. At the second series of public open houses, the public was invited to suggest potential routes within the Project study area⁴⁸. Any member of the public could also request to be on the mailing list to receive information about the Project⁴⁹. Indeed Ms. Webb, while not residing within the Project study area, signed in and attended the two public open houses in Tucson⁵⁰. It does not appear that she provided written comments expressing many of her concerns she now appears to have. Ms. Webb also could not provide the Committee with a “Non-Governmental Organization” in the Vail area to specifically receive notice for such a project⁵¹. Further, the Project is largely outside of the 425-square mile Vail School District that Ms. Webb often cited to in her filings and testimony.

Once the Application was filed, the public was notified about the first series of Committee hearings through: (1) the fourth newsletter mailed in April 2009; (2) the public notice of hearings published in local newspapers; (3) signs posted along the proposed routes at 43 locations⁵². While the Company continues to find ways to refine and improve its public process, in this case the public process was open and extensive and sought to include all those residents and businesses within the Project study area.

Regarding Ms. Webb’s allegations that the Company failed to notify the Bureau of Land Management (“BLM”), BLM was informed about the Project in July, 2008⁵³. The Company continues to meet with BLM representatives to determine what level of environmental review is needed for two specific areas of land where BLM may have some authority. The first is in Segment 4 near the Santa Cruz County complex. BLM conveyed that piece of property to the County, but BLM believes it may have some control regarding changes to UNS Electric’s ROW⁵⁴. The other piece of BLM property was originally covered under a State Land lease issued in 1955

⁴⁸ Tr. at 492.

⁴⁹ Tr. at 500.

⁵⁰ See Ex. UNS-1 at Exhibits J-5 and J-6.

⁵¹ Tr. at 938, 1051.

⁵² Ex. UNS-9; Ex. UNS-11; Tr. at 94-95.

⁵³ Ex. UNS-1 at Exhibit J-7; Ex. UNS-5 at 6.

⁵⁴ Tr. at 744.

1 when the land was under state control⁵⁵. This 200-foot area of land (from the Nogales Tap to
2 Wilmot Road) has since been ceded back to BLM. UNS Electric continues to work with BLM to
3 sort out the level of federal review appropriate for the Project should any ROW(s) or easement(s)
4 be needed⁵⁶.

5 Finally, the Committee properly declined Ms. Webb's request to establish a Citizens
6 Advisory Council (CAC) as a condition for this Project. Such a group would be duplicative with
7 the efforts of ongoing transmission planning efforts (including the Southeastern Arizona
8 Transmission Study (SATS) under Western Electricity Coordinating Council (WECC); the
9 transmission planning processes established through FERC Order 890; and the Commission's
10 own public Biennial Transmission Assessment (BTA) process required under A.R.S. § 40-
11 360.02). Certainly, citizens can participate in the BTA process and Ms. Webb has been a part of
12 the planning process stemming from FERC Order 890 in southern Arizona.

13 In addition, the Committee and this Commission already serve in role envisioned by Ms.
14 Webb in seeking to form a CAC to oversee the siting process. The Committee's membership is
15 diverse and seeks to balance varying public interests and determining the environmental
16 compatibility of a Project⁵⁷. Beyond the Committee, the Commission, as an elected body,
17 determines need and balances that with the environmental impacts of the Project. In short there is
18 no good reason or basis to create a new public body to direct and police the activities of UNS
19 Electric and other utilities in the planning and construction of transmission lines and power plants.
20 That is the job of the Committee and this Commission.

21 Further, to require UNS Electric to establish this CAC would further and unnecessarily
22 mean increase the cost of the Project. While Ms. Webb and local citizens are free to form such an
23 entity independently and to participate in transmission planning cases and planning groups, UNS
24 Electric should not be required to incur the time and expense needed to establish and "sponsor"
25

26 ⁵⁵ Tr. at 745.

27 ⁵⁶ Tr. at 744-45, 854.

⁵⁷ See the Statements from Committee Member Palmer, Tr. at 947-48.

1 such an entity. In short, a CAC is not an appropriate CEC condition.

2 **C. Adequate Measures are in Place to ensure Minimized Impacts to the**
3 **Environment without an Archaeologist or Biologist on site during**
4 **Construction.**

5 UNS Electric will have both an archaeologist and biologist on-call during construction⁵⁸.
6 In this case, having either on-site during construction is not necessary and will increase costs for
7 the Project in having to retain both to be on staff. The Company will follow mitigation measures
8 set forth in Exhibits C, D, E and F of its Application. The CEC is conditioned on the Company
9 filing a mitigation plan that includes conservation measures attached as part of the CEC⁵⁹. While
10 the Mesquite Bosque Area is a special area, these mitigation measures plus the existing laws will
11 ensure its protection. Finally, the Company pledges to utilize a five-year trim to manage
12 vegetation, for the Preferred Alignment in the Mesquite Bosque Area, so long as that will meet
13 FERC / NERC vegetation management requirements, within the Mesquite Bosque Area⁶⁰.

14 **D. The Committee Included a Condition to Address Pole Color in the CEC.**

15 The CEC includes a condition that: (1) requires UNS Electric to submit a Pole Finish Plan
16 ("PFP"); (2) that provides guidance as to when dull galvanized grey monopoles will be used; and
17 (3) that provides that dull galvanized grey poles will be used between the Vail Substation and
18 Wilmot Road in Segment 1A⁶¹. There are existing 138 kV lines on lattice towers in that area. Ms.
19 Webb indicated during the hearings that she desired to have dull galvanized grey monopoles used
20 when the Project would be next to lattice towers⁶². The Company ultimately agreed to do so. This
21 condition provides a standard to where dull galvanized grey will be used for the Project versus
22 where self-weathering steel will be used.
23
24

25 ⁵⁸ Tr. at 413-14.

26 ⁵⁹ See CEC (July 15, 2009) at Condition 13, Exhibit B.

27 ⁶⁰ Tr. at 302, 789, 957.

⁶¹ See CEC at Condition 23.

⁶² Tr. at 733, 946.

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CONCLUSION

Mr. Magruder's and Ms. Webb's intervention and requests are well-intentioned. It is obvious both have a genuine interest in the areas the Project traverses. Their proposals, however, merely increase cost and some may even compromise the reliability of the Project. Further, the evidence shows the public outreach process was aggressive and directed to providing meaningful information to and participation by the public.

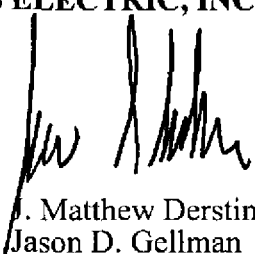
Accordingly, the Company believes that the proposals put forth in Mr. Magruder's and Ms. Webb's requests for review are not in the public interest and the Commission should approve the CEC issued by the Committee for the Project because:

- (1) The evidence shows the Project is needed to provide a reliable supply of power;
- (2) The Project route -- with the conditions in the CEC -- is environmentally compatible and will minimize impacts to the environment and balances the factors set forth in A.R.S. § 40-360.06;

RESPECTFULLY SUBMITTED this 8th day of September 2009.

UNS ELECTRIC, INC.

By


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